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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

WANDA SMITH,

Plaintiff,

v.

**EXPERIAN INFORMATION
SOLUTIONS, INC.,**

Defendant.

} **Case No.: SACV 17-00629-CJC(AFMx)**
}
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}

**ORDER GRANTING DEFENDANT'S
MOTION TO STAY THE CASE**

I. INTRODUCTION

Plaintiff Wanda Smith filed this putative class action against Defendant Experian Information Solutions, Inc. (“Experian”), on April 6, 2017. (Dkt. 1 [Complaint, hereinafter “Compl.”].) Before the Court is Defendant’s motion to stay the case pending

1 the resolution of the appeal of a related case, *Reyes v. Experian Information Solutions,*
 2 *Inc.*, Case No. 8:16-CV-563-AG-AFM, which is currently before the Ninth Circuit. For
 3 the following reasons, the motion to stay is GRANTED.¹

5 **II. BACKGROUND**

7 The *Reyes* case and the instant case arise out of a similar factual background and
 8 are both class actions brought against the same Defendant, Experian. (Dkt. 1 [Complaint,
 9 hereinafter “Compl.”]; Dkt. 35 [Request for Judicial Notice, hereinafter “RJN”]² at Ex. A
 10 [hereinafter, “*Reyes Compl.*”].) Experian is a national consumer reporting agency that
 11 creates and sells credit reports. (Compl. ¶ 5.) As part of its business, Experian sells
 12 access to consumers’ FICO credit scores, which are generated by the Fair Isaac
 13 Corporation and represent the creditworthiness of a consumer. (*Id.* ¶ 10.)

14
 15 In 2003, another company, CashCall, Inc. (“CashCall”), became one of Experian’s
 16 subscribers and in that capacity became a “data furnisher” to Experian and was also able
 17 to access consumers’ credit reports. (*Id.* ¶ 12.) According to Plaintiff, CashCall is a
 18 lending company that engaged in a number of nefarious lending practices. (*Id.* ¶¶ 15–
 19 33.) For example, CashCall purportedly paid federally-regulated banks to make loans on
 20 CashCall’s behalf so that CashCall could take advantage of federally insured banks’
 21 exemption from state usury laws. (*Id.* ¶ 15.) CashCall also purportedly partnered with a
 22 member of the Cheyenne River Sioux Tribe to form a lending entity, called Western Sky
 23 Financial, LLC (“Western Sky”), in order to take advantage of tribal sovereign immunity
 24 and evade usury laws. (*Id.* ¶¶ 20–21.) According to Plaintiff, since 2009, state and

25
 26 ¹ Having read and considered the papers presented by the parties, the Court finds this matter appropriate
 27 for disposition without a hearing. See Fed. R. Civ. P. 78; Local Rule 7-15. Accordingly, the hearing set
 for January 22, 2018, at 1:30 p.m. is hereby vacated and off calendar.

28 ² Defendant’s request for judicial notice, (Dkt. 35), is GRANTED. The documents are matters of public
 record that are “not subject to reasonable dispute because [they] . . . can be accurately and readily
 determined from sources whose accuracy cannot reasonably be questioned.” See Fed. R. Evid. 201.

1 federal regulators have been investigating and imposing sanctions on CashCall and
2 Western Sky for making loans in violation of state licensing laws, usury laws, consumer
3 protection laws, and legal debt collection practices. (*Id.* ¶ 34.)

4

5 Plaintiff further alleges Experian was aware of Western Sky and CashCall's
6 purportedly unlawful conduct. Western Sky was a client of Experian, and Experian
7 understood the nature of the relationship between Western Sky and CashCall. (*Id.* ¶¶ 27–
8 29.) Plaintiff alleges that Experian nevertheless continued to work with both companies
9 and that Western Sky and CashCall generated "millions of dollars for Experian annually"
10 from 2010 to 2013. (*Id.* ¶ 33.)

11

12 Beginning in January 2014, apparently as a result of Experian's internal policy
13 decisions and a settlement agreement between Western Sky and the State of New York,
14 Experian began deleting Western Sky and CashCall loans from borrowers' credit reports.
15 (*Id.* ¶ 49.) According to Plaintiff, the deletion process was executed poorly and
16 intentionally prolonged by Experian, and it was not completed until April 2016 or, in
17 some cases, July 2016. (*Id.* ¶¶ 50–91.)

18

19 Plaintiff Wanda Smith alleges that she obtained a Western Sky loan in March 2012
20 and made payments on the loan through August 2014. (*Id.* ¶¶ 92–97.) In August 2014,
21 Plaintiff learned the loan might be unlawful and decided to stop making payments on the
22 loan. (*Id.* ¶ 97.) As a result, on April 8, 2015, an Experian credit report for Plaintiff
23 reflected a loan delinquency and negatively impacted her credit. (*Id.* ¶¶ 98–103.)
24 Plaintiff claims that the delinquency on her report was inaccurate, that it should have
25 been deleted by Experian, and that Experian is liable under the federal Fair Credit
26 Reporting Act for failing to delete the loan delinquency. (*Id.* ¶¶ 103–116.) On April 6,
27 2017, Plaintiff brought this putative class action on behalf of herself and others whose
28

1 Experian consumer reports reflected a delinquency on a Western Sky or CashCall loan on
2 or after January 1, 2015. (*Id.* ¶ 117.)
3

4 Approximately five months before Plaintiff brought the instant action, a related
5 case was brought by Plaintiff Demeta Reyes on November 23, 2016. (*See generally*
6 *Reyes Compl.*) The *Reyes* action arises out of the same background facts relating to
7 Experian, CashCall, and Western Sky. (*Id.* ¶¶ 1–74.) Plaintiff Reyes also took out a loan
8 from Western Sky, in November 2012. (*Id.* ¶ 75.) Reyes made payments on the loan for
9 approximately four years, until she learned in April 2014 that her loan might be illegal
10 and void. (*Id.* ¶ 79.) Reyes alleges that even though the loan was illegal and Experian
11 should have deleted it from her credit report, a December 10, 2015 report reflected a
12 delinquency for her failure to make payments on the loan. (*Id.* ¶ 87.) Based on these
13 allegations, Reyes brought a putative class action, alleging a violation of the Fair Credit
14 Reporting Act, on behalf of herself and others whose Experian reports reflected a
15 delinquency on a Western Sky or CashCall loan after December 31, 2014. (*Id.* ¶ 95.)
16

17 On October 13, 2017, the district court in the *Reyes* action granted summary
18 judgment for Experian and entered judgment against Plaintiff. (RJN at Ex. C.) The
19 Court held that Reyes’ December 10, 2015 credit report was not “inaccurate” within the
20 meaning of the Fair Credit Reporting Act because it was neither patently inaccurate nor
21 misleading. (*Id.* at 4–7.) The Court also indicated that the facts do not appear to support
22 any claim that Experian willfully failed to comply with the Fair Credit Reporting Act,
23 because its allegedly unlawful acts were “mere ‘mistakes’ in the implementation of an
24 internal policy decision.” (*Id.* at 7–8.) Reyes thereafter appealed the summary judgment
25 order, and the appeal is currently pending before the Ninth Circuit. (RJN at Ex. D.)
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1 **III. ANALYSIS**

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3 Experian now requests a stay of the instant case until the Ninth Circuit's appeal of
4 the *Reyes* action is resolved. Experian argues that the outcome of the appeal will bear on
5 the issues in the instant action. The Court agrees.

6

7 A district court has discretion to stay proceedings. *See Landis v. N. Am. Co.*, 299
8 U.S. 248, 254 (1936). "In considering whether a stay is appropriate, courts weigh three
9 factors: (1) the possible damage which may result from the granting of a stay, (2) the
10 hardship or inequity which a party may suffer in being required to go forward, and (3) the
11 orderly course of justice measured in terms of the simplifying or complicating of issues,
12 proof, and questions of law which could be expected to result from a stay." *Gustavson v.*
13 *Mars, Inc.*, No. 13-CV-04537-LHK, 2014 WL 6986421, at *2 (N.D. Cal. Dec. 10, 2014)
14 (citing *Landis*., 99 U.S. at 254-55).

15

16 The orderly course of justice and the inequities the parties may suffer warrant a
17 stay here. Because the facts of the *Reyes* case and the instant case are so similar, the
18 Ninth Circuit's decision will be dispositive, or at least instructive, on the two central
19 issues in this case: (1) whether the complained-of credit report was inaccurate under the
20 Fair Credit Reporting Act, and (2) whether Experian's conduct was willful. It is therefore
21 in the interest of judicial economy to await the Ninth Circuit's decision before proceeding
22 in the instant case. Without a stay, the parties will be compelled to expend significant
23 resources litigating issues that may have to be revisited after the Ninth Circuit issues its
24 decision. This risk of inconsistent judgments and duplicative efforts weighs heavily in
25 favor of a stay.

26

27 There is no indication that a stay will unduly injure Plaintiff Smith or the putative
28 class members. According to Plaintiff's own allegations, Experian has now deleted all of

1 the CashCall and Western Sky loans from consumers' credit reports, and there is no
2 indication of continuing harm or request for injunctive relief. The stay would therefore
3 only affect the potential timing of an award of monetary relief, which is not a strong
4 concern here, given that the stay is not indefinite, and will be lifted as soon as the Ninth
5 Circuit's decision is issued. The simple delay of obtaining monetary recovery does not
6 strongly weigh against a stay. *See Gustavson*, 2014 WL 6986421, at *3 (N.D. Cal. Dec.
7 10, 2014) (citing *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1110–12 (9th Cir. 2005)).

8

9 **IV. CONCLUSION**

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11 For the foregoing reasons, Defendant's motion to stay proceedings is GRANTED.
12 This case is hereby STAYED pending the Ninth Circuit's resolution of the *Reyes* appeal.

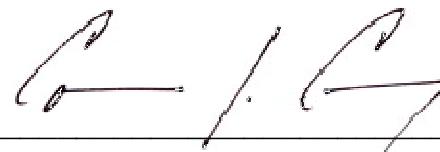
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16 DATED: January 19, 2018

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CORMAC J. CARNEY

19 UNITED STATES DISTRICT JUDGE

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